

KINGDOM OF CAMBODIA

NATIONAL RELIGION KING

**Guideline
on
Dispute Resolution for Migrant
Worker Grievances**



Ministry of Labour and Vocational Training



International
Labour
Organization



1919-2019

Foreword

The Royal Government of Cambodia and the Ministry of Labour and Vocational Training (MOLVT) is pleased to launch the *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances*. With technical support from the ILO, MOLVT developed eight Prakas in November 2013 to support implementation of the Sub-Decree No. 190 on Sending Cambodian Workers Abroad through Private Recruitment Agencies. This included Prakas No. 249 on establishing a Complaint Receiving Mechanism for Migrant Workers. Previously, there was no channel for Cambodian migrant workers who had suffered abuse and exploitation to seek redress other than through the judicial system. Prakas No. 249 establishes a formal process for the non-judicial resolution of migrant worker grievances. Using this mechanisms, migrant workers and their families can lodge complaints with the Provincial Departments of Labour and Vocational Training (PDOLVTs) or MOLVT in Phnom Penh and receive assistance in this process from the network of Migrant Worker Resource Centres (MRCs) supported by the ILO's TRIANGLE in ASEAN programme.

The purpose of the *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances* is to set out the process for resolving migrant worker grievances as defined in Prakas No. 249. The Guidelines include key definitions and implementation principles and clarify what needs to occur at each step of the process and issues that should be considered throughout. Most importantly, the *Guidelines* clarify the roles and responsibilities of key stakeholders, including the PDOLVT and MOLVT, the complainant, MRCs or other service providers, and the respondent or Private Recruitment Agency (PRA). The *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances* is a practical reference for labour officials, service providers and other stakeholders to use when supporting Cambodian migrant workers through the dispute resolution process.

The *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances* responds to the identified need to ensure that migrant workers have access to protection, remedies and compensation from employers in the country of work and recruitment agencies in Cambodia. The *Guidelines* describes three main steps for resolving migrant worker grievances, as outlined in Prakas No. 249. Once an incident occurs, (1) it is either lodged by the migrant worker with a service provider (often an MRC), or directly to a PDOLVT or MOLVT. The complaint is then assessed through a process where complainant and respondent discuss the complaint separately with a dispute resolution officer from PDOLVTs or MOLVT, and then meet to negotiate the terms of an agreement resolving the complaint. (2) An outcome may then be reached through joint agreement. (3) If an outcome is not reached at the provincial level, the complaint is referred to the MOLVT for further action.

These Guidelines are the result of several consultations supported by the ILO's TRIANGLE in ASEAN programme. Consultations brought together officials from the Royal Government of Cambodia, workers' and employers' organizations, recruitment agencies, civil society groups and international organizations. Following recommendations made in the 2016 *Assessment of the complaints mechanism for Cambodian migrant workers*, training on dispute resolution for migrant worker grievances was delivered to 50 representatives from MOLVT, PDOLVTs, employer and worker organizations and civil society groups. The Guidelines also considered recommendations emerging from the ASEAN Forum on Migrant Labour to ensure coherence with regional priorities.

I would like to express my gratitude to all parties involved in the development of these *Guidelines*,

especially to the International Labour Organization (ILO) for their invaluable technical support, and the generous funding support from the Australian Government, through the Department of Foreign Affairs and Trade.

The Ministry of Labour and Vocational Training stands ready to guide policy-makers, line ministries, service providers, civil society organizations and individuals towards the full and effective application and implementation of these *Guidelines* and the increasing access to justice for all Cambodian migrant workers.

Phnom Penh, 17 December 2018

Ith Samheng
Minister for Labour and Vocational Training

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The General Department of Labour, Ministry of Labour and Vocational Training (MOLVT), Royal Government of Cambodia, is grateful for the support of all stakeholders during the development of the guideline on *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances*. The formulation process has included a series of consultations involving tripartite stakeholders, including the Ministry of Interior, the Ministry of Foreign Affairs and International Cooperation, the Ministry of Women's Affairs, the Ministry of Social Affairs, Veterans and Youth Rehabilitation, Ministry of Justice, the Secretariat of the National Committee to Counter Human Trafficking, the National Employment Agency, and Provincial Department of Labour and Vocational Training. Stakeholders have also included the Association of Cambodia Private Recruitment Agency, Manpower Association of Cambodia, the Cambodia Labour Confederation, National Union Alliance Chamber of Cambodia, Migrant Worker Resource Centres, and non-governmental organizations, in particular Legal Support for Children and Women, Gender and Development for Cambodia, Association of Domestic Workers, Winrock International and The Asia Foundation, Cambodian Women Crisis Centre for providing inputs at consultation meetings. Inputs were also provided by international organizations, including the International Labour Organization, International Organization for Migration and UN Women. These consultations and the printing of this guideline were supported by the Australian Government. The MOLVT would like to express its gratitude for the valuable contributions to this endeavor from all stakeholders.

These *Guidelines* would not have been realized without the strong support and commitment of the senior and technical officials of the General Department of Labour, Ministry of Labour and Vocational Training. The MOLVT would particularly like to express its appreciation to the ILO, and in particular Ms. Anna Engblom, Ms. Anna Olsen, Ms. Asha Sharma, Mr. Veth Vorn, Mr. Benjamin Harkins, and Mr. Oliver Fisher, from the ILO TRIANGLE in ASEAN Programme, for providing guidance and technical input throughout the process.

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Acronyms

ILO	International Labour Organization
MOLVT	Ministry of Labour and Vocational Training
MRC	Migrant Worker Resource Centre
PDOLVT	Provincial Department of Labour and Vocational Training
PRA	Private Recruitment Agency

1. Introduction

On 16 November 2013, the Royal Government of Cambodia signed Prakas No. 249 Complaint Receiving Mechanism for Migrant Workers. The purpose of this Prakas was to establish a formal process for the non-judicial resolution of migrant worker grievances.

18 months after the introduction of Prakas No. 249, an *Assessment of the Complaints Mechanism for Cambodian Migrant Workers*¹ was undertaken by the ILO GMS TRIANGLE project. A key finding of the assessment was that although there has been considerable use of the complaints mechanism by migrant workers, and that staff from the Ministry of Labour and Vocational Training (MOLVT), Provincial Department of Labour and Vocational Training (PDOLVT), Migrant Worker Resource Centres (MRCs), trade unions and service providers have demonstrated a strong commitment to pursuing migrant worker rights to justice through the dispute resolution process, there are inconsistencies in the implementation of the process. The Assessment recommended dispute resolution guidelines be created to serve as a resource during conciliation.

¹ http://www.ilo.org/asia/publications/WCMS_466494/lang--en/index.htm

2. Scope

The purpose of the *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances* is to set out the process for resolving migrant worker grievances as defined in Prakas No. 249 Complaint Receiving Mechanism for Migrant Workers. The Guidelines clarify what needs to occur at each step of the process; the roles and responsibilities of key stakeholders including the PDOLVT and MOLVT, the complainant, MRC or other service provider, and the respondent or Private Recruitment Agency (PRA); and the considerations that should be taken into account.

The *Dispute Resolution Guidelines for Resolving Migrant Worker Grievances* aim to serve as a reference for labour officials, MRC staff and other tripartite stakeholders to refer to when supporting Cambodian migrant workers through the dispute resolution process.

3. Key definitions

Complainant: the migrant worker (or his/her representative) that brings the complaint to the attention of a relevant authority in order to remedy an alleged grievance.

Conciliation: a dispute resolution process whereby the parties to a dispute use a conciliator, who meets with the parties both separately and together to assist in resolving the grievance.

Migrant Workers Resource Centre: a place where potential migrants, returned migrants, migrants' families, local authorities, and other community members can visit to obtain information, counselling, and assistance regarding safe migration. MRC staff also conduct outreach activities to potential migrants in schools, training centres, and other community spaces. The MRC additionally can be a hub for other organizations or service providers that conduct work related to migration, for example language lessons, medical or health checks, or vocational or financial skills training. The MRC also provides referrals for returned migrants who may want to pursue legal claims against their recruiters or employers or those looking for jobs, either locally or in another country.

Private Recruitment Agency:

- Shareholders of any Private Company that has been officially recognized as a Private Recruitment Agency operating the activities in the Kingdom of Cambodia and has signed contract with Ministry of Labour and Vocational Training.
- People appointed by the Private Recruitment Agency to take responsibility of the whole company or one section of company which has works that having integrated many groups and has the right to make decision on these works directly such as Director General of the Recruitment Agency, Executive Director of each section and Director of Training Center of pre-departure orientation.

Respondent: the employer or PRA who is alleged to be responsible for the grievance against the complainant.

4. Implementation principles

The following implementation principles affect all steps of the process and are vital in ensuring the effective implementation of the dispute resolution mechanism.

Accessibility

The mechanism should be easily accessible to all migrant workers, including addressing barriers specific to men and women migrant workers and should actively promote trust, including through reliable services and addressing challenges to language, literacy, awareness of the mechanism, distance, and fear of reprisal.

Responsiveness

All complaints should be taken seriously and handled quickly. The dispute resolution mechanism should be responsive to the needs of all migrant workers who may wish to file a complaint. Feedback on stakeholders using the system should be sought and listened to, and be taken into account in the way complaints are handled.

Rights-based

The dispute resolution mechanism should ensure that its outcomes and remedies accord with Cambodian Labour Law, Sub Decrees, Prakas, regulations, and international labour standards that have been ratified by Cambodia, and that it does not restrict access to other redress mechanisms.

Handled sensitively

Grievances should, where possible and appropriate, be resolved in a confidential context in order to maintain ethical standards. All migrant workers should be treated equally regardless of age, disability, culture, ethnicity, gender, gender identity, religion, political opinion, membership of trade union or other community group or sexual preference. Appropriately trained staff should be available to handle sensitive complaints, including reports of violence and harassment and crimes.

Independence

Decisions made should be impartial. All relevant parties should be consulted so that all sides of the story are taken into account. There should be a full and objective evaluation of the facts or evidence provided. A complaint should be treated on its merits, with an open mind and without prejudice arising from any previous contact between the complainant and the employer.

Transparency

The dispute resolution mechanism is transparent when all relevant stakeholders know their roles and responsibilities and who is ultimately responsible for the proper functioning of the mechanism. Communication between all stakeholders should be open and timely, unless the information is limited for confidentiality, privacy or other reasons. All meetings should be documented to ensure a record of information is maintained.

Applicability

The dispute resolution mechanism should be accessible to all migrant workers regardless of their legal status in the country of destination, and not be restricted to regular migrant workers or those who travelled with licensed PRAs.

5. Dispute resolution process

The figures below describe the main steps for resolving migrant worker grievances as set out in the Prakas No. 249 Complaint Receiving Mechanism for Migrant Workers. Once the incident occurs, it is either lodged by the migrant worker at an MRC, or directly to PDOLVT or MOLVT. The complaint is then assessed through a process of inviting both parties to discuss the complaint separately with a dispute resolution officer within PDOLVT or MOLVT to then come to an agreement jointly. If an outcome is not reached at the provincial level, the complaint is referred to the MOLVT for action.

Figure 1: steps for dispute resolution for migrant worker grievances – lodged with MRC

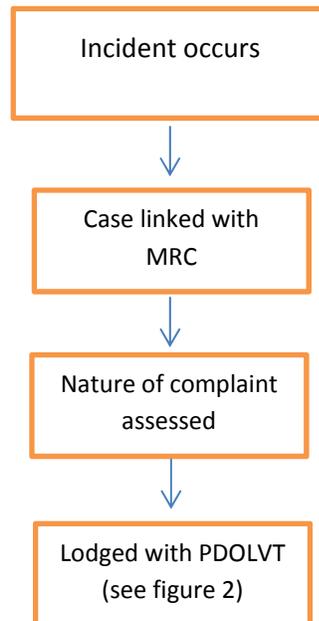


Figure 2: steps for dispute resolution for migrant worker grievances – lodged with PDOLVTs.

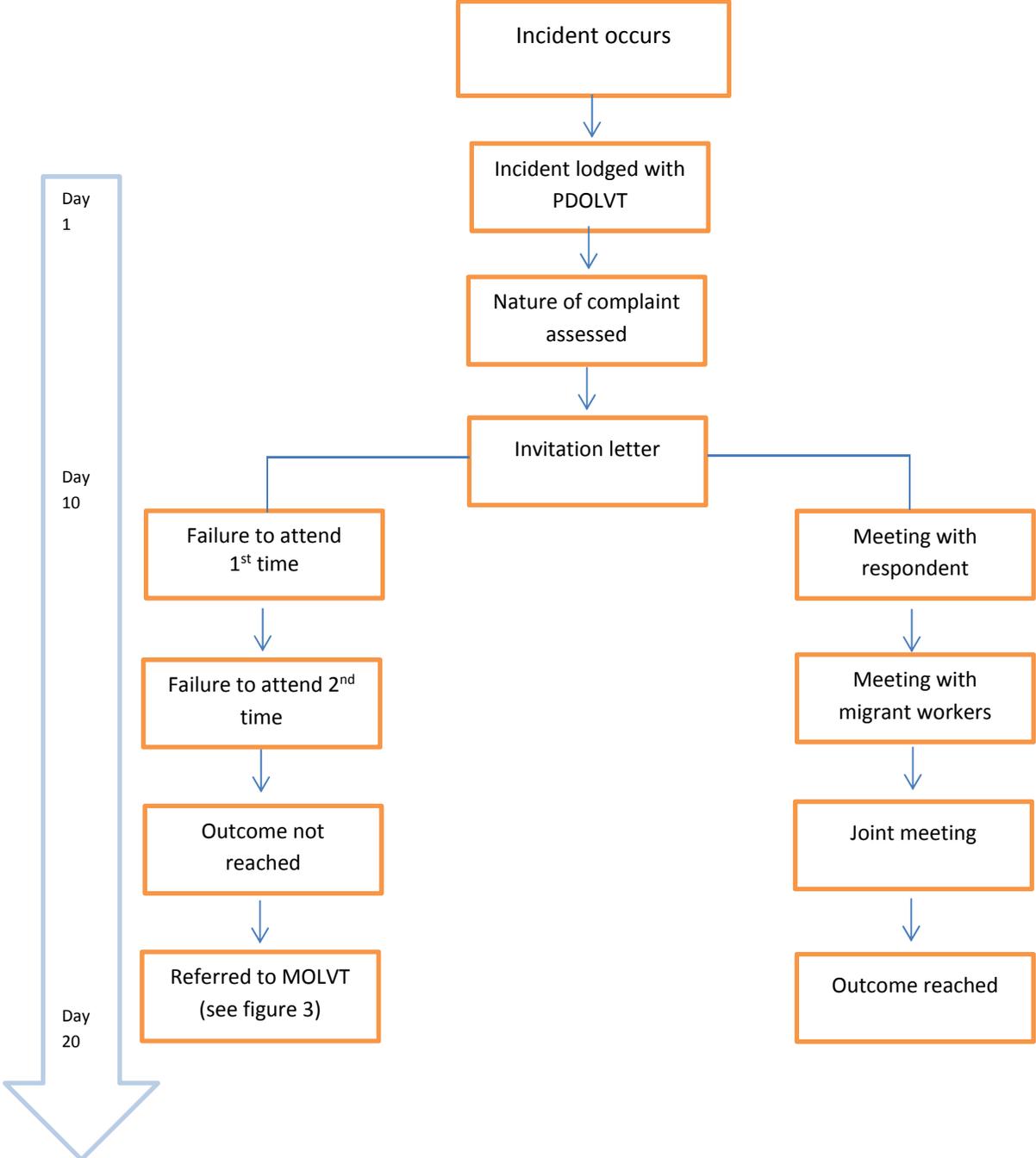
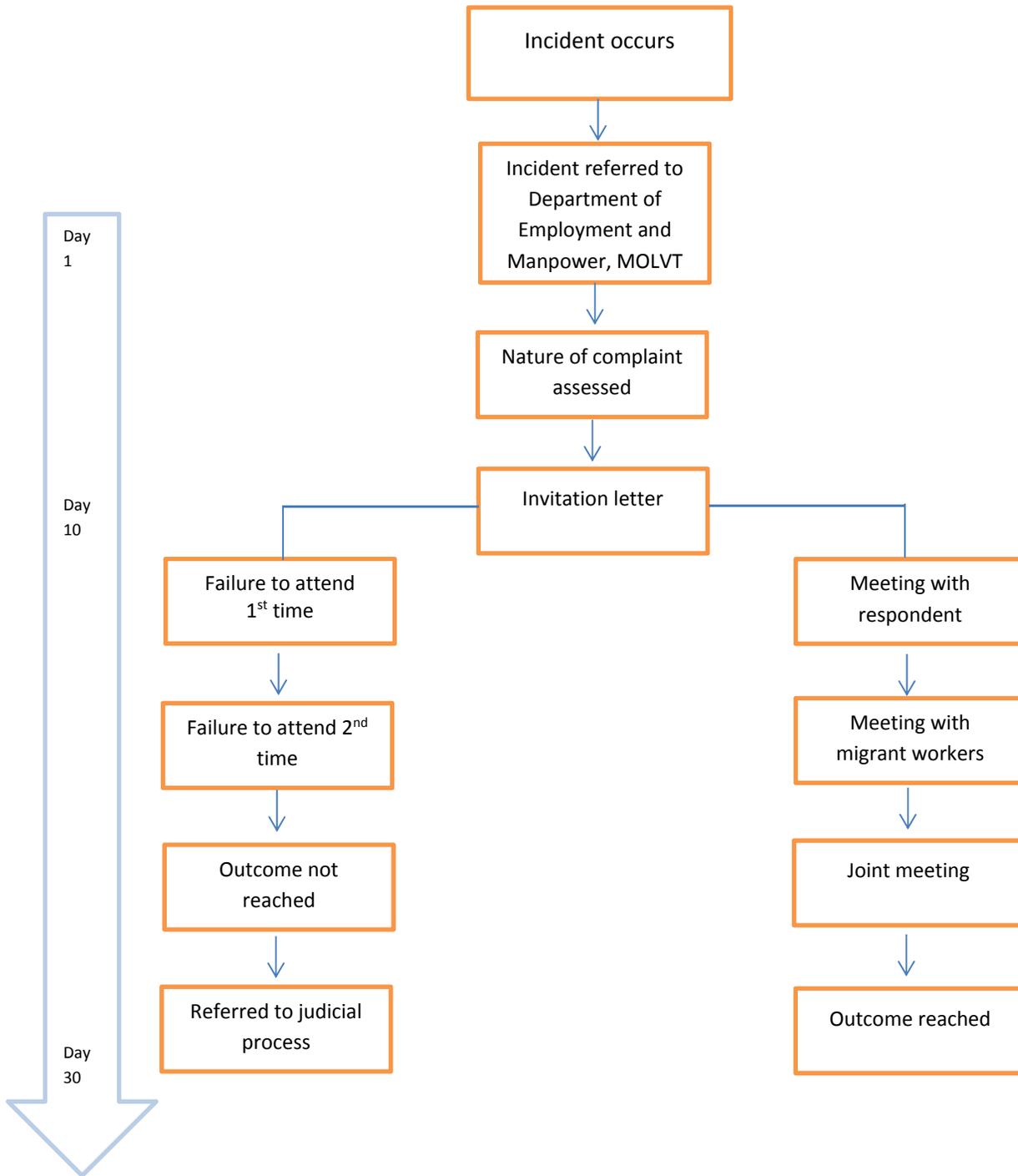


Figure 3: steps for dispute resolution for migrant worker grievances – lodged with Department of Employment and Manpower, MOLVT



5.1. Step 1: Lodgment of complaint

Summary of process

This initial step involves receiving the complaint from the migrant worker and completing the complaint form to ensure sufficient information is available to assess the nature of the complaint.

Responsibilities of POLVT

- A. Listen carefully to the complaint of the migrant worker or member of their families.
- B. Acknowledge receipt of the complaint and inform the complainant of the expected process and timeline.
- C. If necessary, inform the complainant if their request is outside the scope of the procedure. Provide them with reasons necessary for this decision and possible alternative channels to pursue their complaint.
- D. Record the complaint in the complaint form (provided at Annex 1) with sufficient information to assess the nature of the complaint.
- E. Ensure that the complaint is uploaded into the labour migration database.

Responsibilities of MRC/service provider

- A. If the complaint is submitted through an MRC/service provider, the MRC/service provider must receive and refer the complaint to PDOLVT or MOLVT for assessment.
- B. Offer legal aid support through the linked legal aid service provider if necessary.

What to consider

- **Accessibility:** Ensure that it is clear to the migrant worker when they enter the office who to contact and where to go to lodge the complaint.
- **Responsiveness:** Consider how far the migrant worker or member of their families has traveled to lodge a complaint. Avoid keeping the migrant worker waiting for an extended period of time.
- **Sensitivity:** Provide a safe and confidential space for the migrant worker to lodge the complaint. Ask who the migrant worker would prefer to speak to and ensure that there are both men and women employees available to receive the complaint.
- **Conducting the initial meeting:** Engage in active listening, demonstrate interest in what is being said and encourage the complainant to continue to talk. Check to see that you have understood the message correctly. Ask for clarification if you don't understand what the complainant migrant worker is saying.
- **Complexity of case:** If it is clear that the complaint is complex, advise the migrant worker that there may be delays in seeking an outcome. Set a reasonable time limit.
- **Scope:** A complaint is outside the scope if it is not a migrant worker grievance and therefore outside the purview of the MOLVT. Note that many crimes (e.g. forced labour, trafficking for the purposed of labour exploitation, fraud, criminal negligence or restriction of movement) may be both a crime to be ordered through the regular judicial processes and a migrant worker grievance.
- **Group complaints:** If a group complaint is lodged, ensure that all complainants have the same complaint against the same PRA, and are seeking the same resolution. If the

complainants have different complaints or seeking a different resolution, individual complaints must be lodged.

5.2. Step 2: Assessment of the complaint

Summary of process

This step involves assessing the nature of the complaint by inviting the complainants and respondents to attend conciliation hearings with a view to reaching an outcome. There are four stages involved in this step: 1) inviting parties to discuss the complaint; 2) discussing the complaint with the respondent; 3) discussing the position of the respondent with the complainant; and 4) jointly meeting with both parties to come to an agreed outcome.

Stage 1: Inviting parties to discuss the complaint

This stage involves formally inviting the complainant and respondent to attend conciliation hearings and following up if not response has been received.

Responsibilities of PDOLVT/MOLVT

- A. Draft letter to complainants and respondents inviting them to attend conciliation hearing.
- B. Send letter (or call) within 10 days of receiving complaint. If a call is made, a record of the time/date of call and the outcome should be kept on file.
- C. Follow up with complainant and respondent if no response has been received within 3 days of sending letter (or making a call).

Responsibilities of MRC/service provider

- A. Follow up with migrant worker 10 days after lodgment of complaint to ensure that invitation call/letter has been received.
- B. Once letter has been received, confirm availability (of migrant worker and representative) to attend meeting within 3 days of receiving invitation letter/call.

Responsibilities of respondent

- A. Once letter has been received, confirm availability to attend meeting within 3 days of receiving invitation letter/call.

Stage 2: Meeting with respondent

The purpose of this meeting is to discuss the complaint against the respondent without the migrant worker or representative present.

Responsibilities of PDOLVT/MOLVT

- A. Thank the respondents and/or their representatives for attending the meeting
- B. Provide an introduction of the roles and responsibilities of the PDOLVT/MOLVT and labour dispute resolution procedure which is in accordance with existing labour law, Sub Decree and Ministry's Prakas.
- C. Present the complaint to the respondent, focusing on the facts of the case and the remedy requested.

- D. Provide the respondent with an opportunity to respond to facts and remedy requested.
- E. Record the discussion in a minute of meeting with respondent (provided in Annex 2).

Responsibilities of Respondent

- A. Attend the meeting. You are entitled to bring a representative or have a representative attend on your behalf.
 - a. If you are unable to attend the meeting, advance notice must be provided to PDOLVT/MOLVT.
 - b. If you do not attend the meeting and do not provide notice you have one more opportunity to meet with PDOLVT/MOLVT.
 - c. In the event that you do not attend the second meeting, the case will be determined in favour of the complainant and you will be responsible for the violations alleged and if requested, pay the compensation ordered.

Stage 3: Meeting with complainant

The purpose of this meeting is to discuss the position of the respondent following the meeting held between the respondent and PDOLVT/MOLVT.

Responsibilities of PDOLVT/MOLVT

- A. Thank the migrant worker and or their representatives for attending the meeting.
- B. Provide an introduction of the roles and responsibilities of the PDOLVT/MOLVT and labour dispute resolution procedure which is in accordance with existing labour law, Sub Decree and Ministry's Prakas.
- C. Provide a summary of the complaint received to the migrant worker, focusing facts of the case and the remedy requested.
- D. Discuss the position of the respondent and proposed recommendations for outcome.
- E. Request feedback on proposed resolution.
- F. Advise the complainant of next steps and expected timeframes.
- G. Record the discussion in a minute of a meeting with complainant (provided in Annex 3).

Responsibilities of complainant/representative

- A. Provide representation for the migrant worker and accompany them to the meeting. If the migrant worker does not wish to/cannot attend, represent the migrant worker on his/her behalf.
- B. Consider in good faith the resolution proposed by the respondent.

Stage 4: Joint meeting

The purpose of this meeting is for the two parties to come to a common agreement.

Responsibilities of PDOLVT/MOLVT

- A. Thank both parties for attending meeting.
- B. Explain that it is in the best interests of both parties to reach an agreement to avoid the time and cost associated with a court proceeding.

- a. Encouraging parties to explore potential solutions and assist them in finding a mutually acceptable outcome. This could include make suggestions for settlement terms and providing advice on the subject-matter.
- C. Complete the Labour Dispute Reconciliation form (provided in Annex 4).

What to consider

- Reaching an agreement must be the number one priority: Most migrant workers utilize the complaints process because they do not want to spend time and money on court proceedings and see the complaints process as a simpler, cheaper and faster way to reclaim their fees.
- Communication: Anticipated timeframes and procedural steps should be advised as an ongoing process. Regularly discuss progress with the complainant, inform about envisaged recommended remedy and advice on further possible actions, consultations, and follow up options with relevant stakeholders.
- Conducting the initial meeting: Engage in active listening, demonstrate interest in what is being said and encourage the complainant to continue to talk. Check to see that you have understood the message correctly. Ask for clarification if you don't understand what the interviewee is saying.
- Representation: It is mandatory that support from a legal service provider is present for all meetings involving the migrant worker. A representative is also permitted to represent the respondent.

5.3. Step 3: Reaching an outcome

Summary of Process

The final step in the dispute resolution process is when both parties agree on a resolution at the joint meeting, sign an agreement of the resolution and/or enact the resolution if it involves a refund of fees or a return of passport. If the respondent does not attend this meeting, the respondent is considered responsible for the alleged violation, including payment of compensation or unpaid wages. In the event that an agreement is not reached, the complaint is referred to the MOLVT (if the case was being actioned by the PDOLVT).

Option A – Outcome reached

Responsibilities for MOLVT/PDOLVT

- A. Note that it is the responsibility of both parties to respect the agreement and that if either party does not, they are responsible by law.
- B. Order the respondent to provide the remedy agreed.
- C. Record the agreement between complainant and respondent (as provided in Annex 5)
- D. If remedy has not been provided within 10 days, follow up with the respondent to ensure that compensation ordered is received. If compensation has not been received within 10 days, the dispute is considered unresolved and is referred to MOLVT.

Responsibilities for MRC/service provider

- A. Follow up with migrant worker to ensure the remedy has been provided within 10 days. If the remedy has not been provided, inform PDOLVT.

Option B – Outcome not reached

In the event that an outcome was not reached, the matter is referred to the MOLVT to handle and resolve.

Responsibilities of PDOLVT

- A. Announce to all parties that the case was not resolved.
- B. Prepare minute of Labour Dispute Reconciliation for signature by the dispute resolution officials and the disputing parties (provided at Annex 4).
- C. Inform each party of their rights and existing legal procedures.
- D. Refer the case to the MOLVT.

Responsibilities of MOLVT

Once the complaint is referred to MOLVT, three options can be pursued:

Option 1: Resolve dispute in accordance with procedure

In a case where the dispute is not resolved by the PDOLVT with 20 working days, the case is referred to the MOLVT who has 30 days to resolve the case. This could include:

1. Assessing the nature of the complaint (i.e. going through Step 2)
2. Delivering a penalty to the PRA in the event that they were found responsible for the violations alleged and/or ordered to pay compensation and have not done so.
 - a. Written warning: In the event that the PRA has not provided compensation within 10 days of the order a written warning shall be provided. The written warning should inform the PRA that if it does not pay compensation within the next 20 days, the issue will be referred to court and that all expenses shall be borne by the PRA. The written warning should provide the PRA with the option to pay compensation via withdrawal from the Guarantee Deposit rather than referring the matter to the judicial system. The Guarantee Deposit would then need to be topped up by the PRA.
 - b. The MOLVT refuses to process migrant workers' documents from that PRA for a period of two months if the PRA does not resolve the case with the migrant worker. PRAs to be put on notice publically.
 - c. Revocation of authorization: In the event that a PRA has been provided with 3 written warnings, a revocation of authorization will be provided.

Option 2: Refer case to appropriate authority

A case may be referred to an appropriate authority if it is considered outside the purview of the MOLVT/PDOLVT. However this option should be actioned during step 1 to avoid delay. Some examples when a case may need to be referred include:

- Cases relating to suspected trafficking in persons, which should be referred to Anti-Human Trafficking and Juvenile Protection Department in Phnom Penh or to Anti-Human Trafficking and Juvenile Protection Office in province.
- Cases relating to unlicensed training centres which should be referred to the judicial police officer of the National Police Commissariat, Ministry of Interior.

Option 3: Initiate judicial process

Whilst MOLVT are under obligation to refer cases to court, assistance may be provided to the complainant to prepare forms for court proceeding and identify a lawyer to defend the migrant worker.

A case can be referred to a judicial proceeding in the following circumstances:

1. In the event that an outcome has not been reached (Step 3: Option A(D) or Option B)
2. In the event of a criminal case as defined by the Criminal Code of the Kingdom of Cambodia, which may include:
 - a. Cases of fraud or breach of contract
 - b. Sexual violence, for example sexual harassment, rape
 - c. Trafficking (in conjunction with Anti-Human Trafficking and Juvenile Protection)
 - d. Forced labour
 - e. Unlicensed training centre (in conjunction with judicial police officer)

What to consider

- Best outcome: Consider what option would provide the best outcome for the migrant worker.
- Consent to refer: Inform the complainant and seek his/her fully informed consent for the referral, including explaining the referral decision, likely timeframes and provide new points of contact.
- Referred matters: PDOLVT/MOLVT should discuss with the referral partner whether and how they will take up the complaint. Provide support to the referral partner to overcome any challenge in the resolution of the complaints. Follow up regularly with the complainant and the referral partner on the progress of the complaint handling. PDOLVT/MOLVT should aim to build constructive relationships with relevant referral partners. If possible, a memorandum of understanding should be concluded for future similar cases.

6. Guidance for handling common cases

The below text provides further guidance on how to resolve the most common types of complaints submitted by migrant workers. These complaints include, non-payment of wages, retention of identification documents and delayed deployment/job not provided.

6.1 Non-payment of wages

Migrant workers are entitled to receive the agreed wage as stipulated in their employment contract. In order to ensure this outcome is obtained the following summary of steps should occur:

1. As the conciliator, it is the responsibility of MOLVT/PDOLVT to facilitate an agreement between the two parties.
2. If an agreement is not reached, the case should be considered unresolved and referred to the MOLVT who should resolve the dispute in accordance the procedure as set out in *Option 1: Resolve dispute in accordance with procedure.*
3. If the dispute has not been resolved, the case is referred to a judicial proceeding.

6.2 Delay/job not provided

When migrant workers lodge complaints about delays in deployment, they are seeking a full refund of the costs and fees they have paid the PRA, potentially compensation for lost wages or immediate or hastened deployment. In order to ensure that this outcome is achieved, the same steps should be followed as above.

6.3 Retention of identification

As stipulated in Prakas No 46/13 on Recruitment Process and Pre-Departure Orientation Training, personal documents of workers cannot be illegally confiscated. In the event that identification is retained, the PRA or employer will be ordered to return identification to the migrant worker immediately. In order to ensure that this outcome is achieved, the same steps should be followed as above.

7. Guidance for handling complex cases

The timeframes identified throughout these guidelines are stipulated by Prakas no. 249. However, complex cases may take a longer time to resolve, particularly given the need to consult with parties not already mentioned in these guidelines. Some examples of complex cases include complaints that occur outside Cambodia, migrant worker deaths or disappearances and cases not covered under existing law.

When it is anticipated that a case will take longer than 20 days to resolve, the migrant worker should be informed at the earliest possible opportunity and be provided with regular updates of the status of the complaint.

7.1 Cases involving Cambodian migrant workers in a destination country

When a dispute occurs involving a Cambodian migrant worker in a destination country, the Cambodian embassy or Consulate should be involved in the dispute resolution process. Complaints can either be submitted to the permanent office of the PRA's representative, Consulate or Embassy of the Kingdom of Cambodia in receiving country or to the Competent Authority of the receiving country.

Responsibilities of Cambodian Embassy or Consulate

- A. Act as a focal point for migrant workers to lodge complaints with MOLVT against PRAs. Embassies/consulates are responsible for facilitating and resolving disputes with PRAs or employers in the country of employment in cases of abuse and violations against the worker, disappearance of workers, death of workers, and unpaid salaries of workers.
- B. Act as the dispute resolution officer by assessing the nature of the complaint and reaching an outcome.

Responsibilities of Cambodian PRA

- A. Coordinate and assist the complainant to lodge a complaint to the Consulate or Embassy of the Kingdom of Cambodia in the receiving country against employers and to the receiving country's Competent Authority.
- B. In the event of migrant worker deaths or disappearances, the PRA is required cooperate and collaborate with the Cambodian Consulate, Embassy or Competent Authority of the receiving country to obtain official documentation on the disappearance of a worker and send a written notice to the MOLVT, and the Ministry of Interior of the Kingdom of Cambodia and the worker's family with clear information on the disappearance.

What to consider

- In the event where a case requires the participation of expert officials from the MOLVT or hiring of a lawyer, all costs shall be borne by the PRAs.

7.2 Cases not covered by existing law

In the event that a case arises that is not covered by existing law, a tripartite technical working group shall be established to provide advice to MOLVT/PDOLVT on an appropriate process and remedy. In the event that this occurs, the complainant and respondent should be informed of the likely delays and consequences as a result.

Note:

Currently there are 25 MRCs operating through Provincial Department of Labour and Vocational Training. There are five MRCs (Battambang, Kampong Thom, Kampong Cham, Prey Veng and Kampot) currently operating under the support of TRIANGLE in ASEAN Programme.

Annex 1: Migrant Worker Complaint Form

Kingdom of Cambodia
Nation Religion King

Migrant Worker Complaint Form
to Department of Employment and Manpower of the Ministry of Labour/ Provincial Department of Labour and Vocational Training

Individual Complainant

My name.....gender.....age.....ID card No.....date of issuance.....
Address, Village..... Commune.....District.....Province/town.....Contact
details (phone or email) Migrant worker’s representative name:.....
Contact number:.....

Group Complainants

My name.....genderage.....ID card No.....date of issuance.....
Address, Village..... Commune.....District.....Province/town.....
Contact details (phone or email)representing.....persons whose name list attached to
complaint form.

Complainants from other sources

Complaint from source:.....No Date of issuance.....Address:
Village..... Commune.....District
Province/town:.....
Contact details (phone or email)

Subject matter of the complaint is (tick all that apply):

<input type="checkbox"/> Remuneration	<input type="checkbox"/> Workers’ Compensation
<input type="checkbox"/> Claim money that paid to PRA	<input type="checkbox"/> Harassment
<input type="checkbox"/> Food and Accommodation	<input type="checkbox"/> Disciplinary Actions / Termination of Employment
<input type="checkbox"/> Occupational Safety and Health	<input type="checkbox"/> Delay in Deployment/ Job Not Provided
<input type="checkbox"/> Job Duties	<input type="checkbox"/> Contract Substitution
<input type="checkbox"/> Work Hours	<input type="checkbox"/> Missing Migrant Worker-Want migrant worker return home country
<input type="checkbox"/> Days Off	<input type="checkbox"/> Missing Migrant Worker-Want to know information about migrant worker
<input type="checkbox"/> Leave	<input type="checkbox"/> Forced Labour
<input type="checkbox"/> Insurance	<input type="checkbox"/> Other

Other facts of the complaint including place and date or period of time and destination country (if more space needed please attach):

Respondent

Name:.....Address:.....
..... Contact details (phone or email):.....

Remedy you are seeking for the complaint (check all that apply, more details beside):

- Monetary Compensation
Amount owed (if known) _____
How calculated (hours / days): _____
- Reimbursement
Amount owed (if known) _____
How calculated (hours / days): _____
- Find migrant worker to return home _____
- Want to know information of the migrant worker _____
- Want to get passport and other documents _____
- Ask the PRA to clearly determine the date of departure to work abroad _____
- Better Working Conditions _____
- Better Living Conditions _____
- Changes in Company Policies and Practices _____
- Re-instatement of Job Lost _____
- Employment as Promised _____
- Deployment to Destination Country _____
- Enforcement of Original Contract _____
- Apology _____
- Locate Missing Migrant Worker _____
- Other (Explain) _____

If you would like to pursue compensation, PDOLVT/MOLVT can assist by holding a reconciliation with the respondent to reclaim it. If you would like to pursue a criminal case, PDOLVT/MOLVT can refer you to an individual within a relevant department or NGO.

Please attach **photocopies** of the following documents if you have them:

<input type="checkbox"/> passport / ID card photocopy <input type="checkbox"/> certification of employment/training Original <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> work permit Original <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> visas; <input type="checkbox"/> resident cards	<input type="checkbox"/> pay slips; time sheets <input type="checkbox"/> "foreign workers' affidavits"; <input type="checkbox"/> letters/declarations from witnesses or others who can corroborate your claims <input type="checkbox"/> any other evidence of abuse (e.g. hospital receipts)
--	---

If you are not attaching copies of your contract or any of these documents, please explain why (e.g. you were not provided copies, or you did not sign a contract):
.....
.....

Please contact migrant worker or migrant worker's representative when following up this case.

Made Day..... Month..... Year 20.....

Signature or thumb print

Name:.....

Annex 2: Minute of a meeting with respondent

**Kingdom of Cambodia
Nation Religion King**

Minute of a meeting with respondent

On statement of year two thousand.....day.....month.....at
(hour).....

Referring to invitation letter No.....datedinvitation by call No.....of the Department
of Employment and Manpower to inform about.....

Information of Employer:

- 1- Name.....
- 2- Gender.....Nationality.....
- 3- Position.....
- 4- Address of company.....#.....St.....Village.....
Commune.....District.....Province/Town.....
- 5- Contact details (phone or email)
- 6- Address.....St.....Village.....
Commune.....District.....
Province/Town.....

Information of Employer's representative:

- 1- Name.....
- 2- Gender.....Nationality.....
- 3- Position.....
- 4- Address of company.....#.....St.....Village.....
Commune.....District.....Province/Town.....
- 5- Contact details (phone or email)personal contact details (phone or email)
number.....

Attendants:

- 1- Representatives of the Ministry of Labour and Vocational Training:
.....
.....
.....
- 2- Respondents or their representatives:
.....
.....
.....

After thanking the respondents or their representatives and the government's personnel who were attending the meeting, a dispute resolution staff introduced roles and responsibilities of the department of employment and manpower and labor dispute resolution procedure which is in accordance with the existing labor law, sub decree and ministry's parkas.

It was followed by the respondentwho was asked by the dispute resolution official to provide the following information:

- 1- Facts of the case.....
.....
.....

.....
.....
2- Respondents response to remedy
requested.....

.....
.....
3- Recommendation for outcome from resolution officials
.....
.....
.....

This meeting ended at.....of the same date.

Phnom Penh, Date:

Minute taker

	Seen and agreed	
Dispute resolution official		Employer or their representative
.....	
.....	
.....	

Annex 3: Minute of a meeting with complainant

**Kingdom of Cambodia
Nation Religion King**

Minute of a meeting with complainant

On statement of year two thousand.....day.....month.....at (hour).....

Referring to invitation letter No.....datedinvitation by call No.....of the department of employment and manpower to inform about.....

Information of Worker:

- 1- Name.....
- 2- Gender.....Nationality.....
- 3- Position.....
- 4- Address.....#.....St.....Village.....
Commune.....District.....Province/Town.....
- 5- Place of Birth.....
- 6- Contact details (phone or email)
- 7- ID card No.....date of issuance.....

Information of Worker's representative:

- 1- Name.....
- 2- Gender.....Nationality.....
- 3- Position.....
- 4- Address: #.....St.....Village.....
Commune.....District.....Province/Town.....
- 5- Place of Birth.....
- 6- Contact details (phone or email)
.....
- 7- ID card No..... Date of issuance.....

Attendants:

- 1- Representatives of the Ministry of Labor and Vocational Training:
.....
.....
.....
.....
- 2- Worker or their representatives:
.....
.....
.....

After thanking the worker or their representatives and the government personnel who were attending the meeting, a dispute resolution staff introduced roles and responsibilities of the department of employment and manpower and labor dispute resolution procedure which is in accordance with the existing labor law, sub decree and ministry's parkas.

It was followed by (the complainant) who was asked by the dispute resolution official to provide the following information:

- 1- Facts of the case
.....
.....

.....
.....
2- Complaint and remedy
requested.....

.....
.....
3- Recommendation for outcome from resolution officials

.....
.....
.....
This meeting ended at.....of the same date.

Phnom Penh, date:.....,

Minute taker

	Seen and agreed	
Dispute resolution official		Worker or their representative
.....	
.....	
.....	

Annex 4: Minute of Labour Dispute Reconciliation

**Kingdom of Cambodia
Nation Religion King**

Minute of Labour Dispute Reconciliation

Private recruitment agency's name.....

1- Process of labour dispute reconciliation:

Date of dispute/...../.....

2- Information of meeting:

Date...../...../..... at (hour).....

Meeting was held in the department of employment and manpower

3- Information of worker:

1. Name.....

2. Gender.....Nationality.....Date of birth.....

3. Position.....

4. Address St..... Village.....

Commune.....District.....Province/Town.....

5. Place of birth.....

6. Contact details (phone or email)Family's contact details (phone or email)

.....

7. ID card No.....date of issuance.....

4- Information of worker's representative:

1. Name.....

2. Gender.....Nationality.....Date of birth.....

3. Position.....

4. Address: St..... Village.....

Commune.....District.....

Province/Town.....

5. Place of birth.....

6. Contact details (phone or email)Family's contact details (phone or email)

.....

7. ID card No.....date of issuance.....

5- Information of employer:

1. Name.....

2. GenderNationality.....Date of birth.....

3. Position.....

4. Company's address: St..... Village.....

Commune..... District.....

Province/Town.....

Contact details (phone or email)Family's contact details (phone or email)

.....

6. House No..... St..... Village..... Commune.....

District..... Province/Town.....

6- Information of employer's representative:

1. Name.....

2. GenderNationality.....Date of birth.....

3. Position.....

4. Company's address St..... Village..... Commune.....

District.....Province/Town.....

5. Contact details (phone or email) Family's contact details (phone or email)

7. House No..... St..... Village.....
Commune.....
District.....
Province/Town.....

7- **Reconciler:**

- 1. Name:
- 2. Name
- 3. Name:
- 4. Name:
- 5. Name:

The other attendants in the meeting

Name.....Position.....
Name.....Position.....
Name.....Position.....

8- **Meeting opened by reconciliation official.....**
.....
.....

9- **Claims of both sides:**

- a. Worker.....
.....
- b. Employer.....
.....
.....

10- **Reconciler's recommendations for the two sides.....**
.....
.....
.....
.....
.....
.....

11- **The two sides' agreed points**

.....
.....
.....
.....
.....
.....

12- **Outcome of the complaint (check all that apply):**

- Monetary Compensation
Amount owed (if known) _____
How calculated (hours / days): _____
- Reimbursement
Amount owed (if known) _____
How calculated (hours / days): _____
- Find migrant worker to return home _____
- Want to know information of the migrant worker _____
- Want to get passport and other documents _____
- Ask the PRA to clearly determine the date of departure to work abroad _____

- Better Working Conditions _____
- Better Living Conditions _____
- Changes in Company Policies and Practices _____
- Re-instatement of Job Lost _____
- Employment as Promised _____
- Deployment to Destination Country _____
- Enforcement of Original Contract _____
- Apology _____
- Locate Missing Migrant Worker _____
- Other (Explain) _____

13- **Case resolved:** Yes , if no continue to question 14 and 15

14- **Not yet agreed points**

.....

15- **Non agreed points**

.....

16- **Action to be followed up on/...../.....(date)**

.....

17- **The parties attended the reconciliation meeting and signed.**

The meeting ended at...../...../.....

After agreeing together as mentioned in #11 of this minute, the two parties shall implement and use it.

If required by law, the department of employment and manpower of MoLVT will help prepare this minute to the court or any competent authority.

This minute indicated real and accurate information on reconciliation agreed and signed by the following parties.

Reconciler	Complainant	Respondent
Signature	Signature or thumb print	Signature or thumb print

Attachment:

- Annex 1, record on worker's statement;
- Annex 2, record on employer's statement.

Annex 5: Agreement between the employer and the worker

Kingdom of Cambodia
Nation Religion King

Agreement
The agreement made between by the Employer
With
Number of Workerpersons

My name.....gender.....Nationality..... is..... representative of
employer or Employer name: Gender Nationality..... Private
Recruitment Agency Address of company, House
No:.....St:.....; Commune/ Sangkak:.....; District/
Khan:.....; Phnom Penh Municipality/ Province:.....

My name..... genderNationality..... representative of workers (Number of
workers.....persons) or worker: gender Nationality.....
Address: House No:.....St:.....; Commune/ Sangkak:.....
District/ Khan:..... Phnom Penh Municipality/Province:.....

Both parties of the labour dispute have agreed (resolved) on the number ofpoints including:
.....
.....

This agreement was made in 3 copies: 1 copy for company party, 1 copy for worker and 1 copy for Department of
Employment and Manpower and this agreement is equal value by law.

Both parties should respect the agreement which was agreed above. If any party do not respect this agreement,
this party should be responsible by law.

We sign or print thumb print in front of the Labour Dispute Resolution Officers of the Department of Employment
and Manpower with promising that will not create any other dispute or problem.

Made Day..... Month..... Year 20.....

Signature or thumb print (Dispute parties)

Party (Company)

.....
.....
.....
.....

Party (Worker)

.....
.....
.....
.....

Signature (Labour Dispute Resolution Officers)

.....
.....